

Exhibit 7

Motion to Dismiss

Initial Prehearing Conference Scheduling Order

Submitted By: Nancy Kramer (On behalf of the arbitration panel)

Submitted Date: 12/19/2023 12:32:57 PM EST

Case ID & Parties:

FINRA Dispute Resolution Services

Initial Prehearing Conference Scheduling Order

Case Number: 23-02187

In the Matter of the Arbitration Between

Claimant(s)

VS

Respondent(s)

Rocco Guidici Pietro

Jamie Della Polla

CONFIRMATION OF INITIAL PREHEARING CONFERENCE (IPHC)

Was an IPHC held in the above captioned matter?

☒ **Yes**

☐ No, but parties jointly submitted an agreement to forgo the IPHC

☐ No, and parties did NOT jointly submit an agreement to forgo the IPHC

INITIAL PREHEARING CONFERENCE SCHEDULING ORDER**IPHC DATE & PARTICIPANTS**

1. An IPHC was held in the above captioned matter on **12/19/2023**

2. The following arbitrator(s) participated in the hearing:

Chairman: Nancy Kramer (Participated ☒)

Panelist: Karen Bedrosian - Richardson (Participated ☒)

Panelist: Raymond Nardo (Participated ☒)

3. The following party representatives participated in the hearing:

Identify participants associated with Claimant:

Scott Holcomb

Identify participants associated with Respondent:

Williams Igbokwe

Identify any participant who is an unnamed person, a non-party customer, or an authorized representative of state securities regulators (for requests to expunge customer dispute information in cases filed on or after October 16, 2023):

NA

4. FINRA Dispute Resolution Services (DRS) staff attendee:

- ☐ The following DRS staff person participated in the hearing

● **Not applicable**

The following was agreed upon during the conference and is now entered as the IPHC Scheduling Order:

CONFIRMATION OF THE PANEL

5. Did the parties accept the panel's composition? (If not, please explain.)

- **Yes**
- ☐ No

PLEADINGS

6. For cases in which a respondent has failed to submit an answer (an unresponsive party), the panel has reviewed the service history for that respondent and finds that:

- ☐ Service is complete and sufficient upon the unresponsive party.
- ☐ Service is not sufficient upon the unresponsive party and the claimant is directed to personally serve the unresponsive party with a copy of the Statement of Claim and notice of the hearing, and file a copy of the affidavit of service with DRS by _____ or the panel directs the claimant to complete service by taking the following action:

By: _____

● **Not applicable**

7. Deficient submissions:

For cases filed on or after October 16, 2023, if a request to expunge customer dispute information fails to include any of the requirements for requesting customer dispute information, the request shall be considered deficient. For additional information about requests to expunge customer dispute information, see <https://www.finra.org/rules-guidance/notices/23-12>.

- ☐ The following submissions are deficient (list submission and deficiency):
- **Not applicable**

8. Deficiency Orders:

For cases filed on or after October 16, 2023, if a deficient request to expunge customer dispute information is not timely corrected, the associated person will not be permitted to refile the request as a new claim under Rule 13805(a). For additional information about requests to expunge customer dispute information, see <https://www.finra.org/rules-guidance/guidance/faqs/expungement-and-finra-rule-2080-faqs>.

☐ Please select all that apply:

☒ **Not applicable**

LATE CANCELLATIONS - PARTY AND ARBITRATOR COMMUNICATIONS

9. Please select the applicable option:

- ☒ **All named parties and all arbitrators have agreed to direct party and arbitrator communication shortly before a scheduled hearing, solely to alert the panel that the parties have settled the case, that the claimant has withdrawn the claim, or that the parties jointly agreed to postpone the hearings. All parties and arbitrators must be included on the direct communication and a copy of the direct communication must be filed on the DR Portal. These procedures prevent arbitrators from unnecessarily traveling to a cancelled hearing, while ensuring that the record is preserved and hearing arrangements are cancelled.**

NOTE: If this option is selected, the party representatives' and arbitrators' email addresses will be automatically added to this IPHC order after it is submitted.

The email addresses for party representatives and all arbitrators solely for purposes of late cancellation notices are as follows:

Party Representatives

Scott Holcomb

O. Williams Igbokwe

scott@holcombward.com

will@iwlaws.com

Arbitrators

Karen Bedrosian - Richardson

Nancy Kramer

Raymond Nardo

bedrosianrichardson.karen@gmail.com

nkramer@jamsadr.com

Raymondnardo@gmail.com

Assigned Staff

Christal Dolly

Neprocessingcenter@finra.org

- ☐ The parties and arbitrators do not agree to any direct communication between the parties and arbitrators. All correspondence and other filings must be sent to DRS staff and served on all parties via the DR Portal.

ARBITRATION HEARING DATES

10. Hearing Dates:

If hearing dates are intended to run consecutively, enter the first scheduled hearing date, then enter the number of additional consecutive business days to be reserved and press the "Add Dates" button. Additional specific hearing date ranges can be entered below the first range of dates.

☐ The first scheduled hearing session in this matter will begin on _____ at _____

● **Other**

Respondent stated that it has recently filed a lawsuit in the NYSD challenging the FINRA arbitration agreement as over-broad and seeking to adjudicate the case in federal court. Counsel asked the panel to stay this arbitration until the court rules. Claimant objected and will respond in writing by December 21st.

The panel will rule on this after it has seen the letter and the response.

Ms. Dolly is requested to set up a panel only conf call for January.

11. If the parties agreed upon dates beyond the period anticipated by DRS in expedited cases, did the senior or seriously ill part(ies) acknowledge on the record that the parties' agreement to these dates constitutes a waiver of their request for expedited proceedings?

☐ Yes

☐ No

● **Not applicable**

12. How will the arbitration hearing(s) be held?

NOTE: Pursuant to Rules 12805(c) and 13805(c) (effective October 16, 2023), if a request to expunge customer dispute information will be considered at a hearing for a case filed on or after October 16, 2023, the associated person and the party requesting expungement on behalf of an unnamed person or the party's representative must appear in person or by videoconference. Customers and witness may appear by telephone, in person, or by videoconference at the hearing. Also, pursuant to Rule 13805(c), an authorized representative of state securities regulators must appear in person or by videoconference at the hearing.

☐ Telephonic (e.g., audio only)

☐ Videoconference

☐ In Person

● **Hybrid with the below participants appearing by videoconference or telephone (e.g., a party(ies), counsel for a party, arbitrator(s), witness(es), etc.)**

Please specify the participants appearing by videoconference or telephone:

impossible to answer at this point if there will be a hearing and of what type

POSTPONEMENTS AND CANCELLATIONS OF HEARINGS

DRS charges a postponement fee for all postponed hearings that is equal to the applicable hearing session fee. DRS will not charge this fee, if the parties advise that they have reached a final settlement and the case can be closed.

Also, if a hearing is postponed or otherwise cancelled within ten days before a scheduled hearing date, there is an additional fee of \$600 per arbitrator (a total of \$1,800 for cases with three arbitrators). This late cancellation fee applies even if a hearing is cancelled due to a final settlement and case closure.

To avoid the late cancellation fee, the parties should file notice of a postponement or cancellation on the DR Portal at least 11 calendar days before the scheduled hearing date.

DISCOVERY DATES

13. Discovery requests cutoff date:

☐ The parties have agreed that the last day to serve discovery requests is _____

☒ **Not applicable**

Please provide the reason (if known):

14. Discovery Response Date:

☒ **Responses to discovery requests are due within 60 days from the date the discovery request is received in accordance with Rule 12507/13507, as applicable.**

☐ The parties have agreed that responses to discovery requests are due _____

DATE FOR PREHEARING CONFERENCE ON DISCOVERY

(Please allow DRS at least one week to forward the pleadings to the panel prior to any prehearing conference. Prehearing conferences are held on Zoom with video unless the parties stipulate or there is an Order otherwise.)

15. Discovery prehearing conference:

☐ The chairperson and parties have reserved _____ at _____ for a prehearing conference to resolve discovery matters.

(The conference is calendared at the time this Order is served. All parties and the chairperson should reserve the date in their calendars.)

☒ **Not applicable**

16. Please provide any additional comments about discovery and any additional discovery prehearing conferences here:

Discovery was not discussed.

SUBPOENAS AND ARBITRATOR ORDERS TO NON-PARTIES CUTOFF DATE

17. Subpoenas and arbitrator Orders to non-parties cutoff date:

- ☐ Last day to serve subpoenas and arbitrator Orders on non-parties, in the absence of extraordinary circumstances, is _____ days before the first scheduled hearing.

- **Not applicable**

IPHC was necessarily incomplete--see #10.

MOTIONS

(Please allow DRS at least one week to forward the pleadings to the panel prior to any prehearing conference. Prehearing conferences are held on Zoom with video unless the parties stipulate or there is an Order otherwise.)

18. Prehearing conference for motion(s) date:

- ☐ The arbitrators and parties have reserved _____ at _____ for a prehearing date to resolve:

(The conference is calendared at the time this Order is served. All conference participants should reserve the date in their calendars.)

- **Not applicable**

19. Please provide any additional comments about motions, including any special briefing schedules, and any additional prehearing conferences here:

POSTPONED OR CANCELLED PREHEARING CONFERENCES

If a prehearing conference is postponed or otherwise cancelled within three business days before the scheduled date, DRS charges a fee of \$100 per arbitrator. The fee will only be charged for arbitrators scheduled to attend the prehearing conference.

To avoid the fee, the parties should file notice of a postponement or cancellation on the DR Portal at least four business days before a scheduled prehearing conference.

LEGAL ISSUES AND PREHEARING BRIEFS

20. If prehearing briefs will be filed, they must be filed by:

- ☐ Please specify date: _____

(Parties must attach all cases, laws, rules, and regulations to their briefs.)

- **Not applicable**

21. Please provide any additional comments about legal issues and prehearing briefs here:

This INHC was incomplete because of the challenge to the arb agreement and will be rescheduled.

WITNESS LISTS

The Codes of Arbitration Procedure outline the parties' obligation to exchange witness lists at least 20 calendar days before the first scheduled hearing date via the DR Portal. The panel requests that, concurrent with the parties' timely exchange of the witness lists, the parties file the witness lists with DRS via the DR Portal for forwarding to the panel. Timely receipt of the witness lists will enable the arbitrators to review the witness lists in advance of the hearing to determine if the appearance of a witness may create a potential conflict or otherwise trigger additional disclosures.

To assist the arbitrators in making these conflict checks, the parties should list the business affiliation of each witness or other descriptive information. A party should only identify an expert witness after the expert witness has been retained.

22. Witness lists due:

- **20 calendar days before first hearing date**
- Please specify: _____ days before first scheduled hearing date

HEARING EXHIBITS AND PROCEDURES

The Codes of Arbitration Procedure require the parties to exchange hearing exhibits at least 20 calendar days before the first scheduled hearing date. The panel requests that the parties make an effort, before the hearing, to agree on the admission of hearing exhibits and resolve possible issues about authentication of exhibits and the scheduling of witnesses' testimony.

The panel also requests that the parties file all of the exhibits which may be entered into evidence at the hearing with DRS via the DR Portal for recordkeeping purposes, as provided below. Parties should make an effort to organize their exhibits in a single PDF file with a table of contents and to label each exhibit. However, PDF "portfolio" files will not be accepted.

NOTE: For cases filed on or after October 16, 2023, a prior expungement award shall not be admissible as evidence.

23. Hearing exhibits filed on DR Portal due:

- **Please specify: 30 days before first hearing date**
- Within _____ days after final hearing date

24. Electronic hearing exhibits are to be forwarded in the DR Portal to the panel:

- ☐ DRS staff should forward electronic hearing exhibits to the panel _____ days before first hearing date
- ☒ **Not applicable, because panel will receive hard copies**

25. Hard copies of hearing exhibits are to be mailed:

- ☐ Mail copies _____ days before first hearing date directly to the arbitrators at the below addresses:
- ☐ Mail copies _____ days before first hearing date to DRS staff for forwarding to the panel
- ☒ **Not applicable, because panel will receive hard copies or electronic copies are sufficient for panel**

26. Please provide any additional comments, including any special instructions for the provision of exhibits in advance of videoconference or telephonic hearings, and any arrangements for a prehearing conference to discuss hearing procedures here:

EXPUNGEMENT REQUESTS

27. Has any party requested expungement?

- ☒ **Yes, there is a request to expunge customer dispute information**
- ☐ Yes, there is a request to expunge intra-industry information (i.e., expungement of termination information or an internal investigation)
- ☐ Yes, there is a request to expunge customer dispute information and intra-industry information (i.e., expungement of termination information or an internal investigation)
- ☐ No

CUSTOMER DISPUTE EXPUNGEMENT REQUESTS BY A CLAIMANT AGAINST A MEMBER FIRM BEFORE 10/16/23

To ensure that the customer(s) know about the expungement request, Claimant is ordered to provide notice to the customer(s) in the underlying occurrence and submit evidence of service. Notice to the customer(s) shall include the following:

- *Notice of the hearing date and time;*
- *Notice of right to participate in the expungement hearing and/or submit a written statement regarding expungement;*
- *A copy of the Statement of Claim; and*
- *Information to facilitate customer appearance at the expungement hearing, including DRS staff's contact information.*

31. Claimant is ordered to provide notice to the customer(s) in the underlying occurrence(s) and submit evidence of service, by:

☐ Please specify a date: _____

● **Not applicable**

Please provide the reason here:

IPHC was necessarily incomplete. See #10.

ALL REQUESTS TO EXPUNGE CUSTOMER DISPUTE INFORMATION

The panel may request from the associated person, or party requesting expungement on behalf of an unnamed person, any documentary, testimonial, or other evidence that they deem relevant to the expungement request (e.g., a copy of the associated person's current BrokerCheck® Report).

32. Please provide any order to the associated person, or party requesting expungement on behalf of an unnamed person, regarding evidence:

33. In cases involving settlements, the panel shall review any settlement documents related to customer dispute information that is subject of the expungement request:

☐ Settlement agreement for each applicable occurrence has been received

● _____

☐ Filing party is ordered to submit the settlement agreement by: _____ for the following occurrence number(s):

☒ **No settlement was reached with respect to the following occurrence number(s):**

2269847

34. Please provide any additional comments about the request to expunge customer dispute information:

NA

OTHER MATTERS

37. Other rulings/deadlines/dates

☐ Please specify:

● **Not applicable**

ASSESSMENT OF FEES

38. If the parties settle this matter with no further hearings, the cost of this IPHC will be borne as follows:



50% to Claimant(s), jointly and severally

50% to Respondent(s), jointly and severally

_____ % assessed to _____

_____ % assessed to _____

_____ % assessed to _____

_____ % assessed to _____

☐ Other

For hearings scheduled to take place at a location other than one of FINRA's offices (e.g., Boca Raton, Chicago, Los Angeles, New Jersey, and New York), parties requiring services or equipment (including, but not limited to, speakerphones, web cams, speakers, microphones, internet access, and screens) need to coordinate directly with the assigned hearing location for use of these services and equipment. All costs to use these services and equipment, outside of a FINRA office location, are the responsibility of the party requiring them.

This Order will remain in effect unless amended by the panel. However, direct party and arbitrator communication may be cancelled by any party or arbitrator.

ATTACHMENTS

There are no attached documents.